

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Yazmin Sanchez	Team: Team # 8	CCRB Case #: 200007276	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/19/2000 10:00 PM	Location of Incident: West 139th Street & Broadway	Precinct: 30	18 Mo. SOL 4/19/2002	EO SOL 4/19/2002	
Date/Time CV Reported Thu, 10/19/2000 10:15 PM	CV Reported At: Precinct	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/20/2000 11:05 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Osvaldo Nunez	06330	918086	030 PCT
2. POM John Hoffman	28293	920398	030 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SDS Thomas Barrett	00884	888419	WARRSEC
2. DT3 Scot Rosenthal	05447	913343	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.POM John Hoffman	Abuse: PO John Hoffman stopped the car in which § 87(2)(b) was an occupant.	
B.POM Osvaldo Nunez	Abuse: PO Osvaldo Nunez stopped the car in which § 87(2)(b) was an occupant.	
C.POM John Hoffman	Discourtesy: PO John Hoffman spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)	
D.POM Osvaldo Nunez	Discourtesy: PO Osvaldo Nunez spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)	
E.POM John Hoffman	Abuse: PO John Hoffman frisked § 87(2)(b)	
F.POM John Hoffman	Abuse: PO John Hoffman searched car in which § 87(2)(b) was an occupant.	
G.POM Osvaldo Nunez	Force: PO Osvaldo Nunez used physical force against § 87(2)(b)	
H.POM Osvaldo Nunez	Abuse: PO Osvaldo Nunez frisked and searched § 87(2)(b)	
I.POM Osvaldo Nunez	Abuse: PO Osvaldo Nunez searched car in which § 87(2)(b) was an occupant.	
J.POM John Hoffman	Abuse: PO John Hoffman did not provide name and/or shield number to § 87(2)(b)	
K.POM Osvaldo Nunez	Abuse: PO Osvaldo Nunez did not provide name and/or shield number to § 87(2)(b)	

## Synopsis

Complainant § 87(2)(b) and his friend § 87(2)(b) both live in Maryland where § 87(2)(b) is a § 87(2)(b). On 10/19/00, at about ten at night, the men, who were riding in a rental car with Virginia plates, stopped at a traffic light in Harlem. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

## Summary of Complaint

Complainant § 87(2)(b) a § 87(2)(b), filed a civilian complaint report (enc. 3) fifteen minutes after two police officers, subsequently identified as PO Osvaldo Nunez and PO John Hoffman, stopped him and his friend, § 87(2)(b) for stopping their vehicle – a rental auto with Virginia plates - “in a crosswalk.” (Allegations A & B). § 87(2)(b) and § 87(2)(b) – both § 87(2)(b) old black males – were driving a rental auto with Virginia plates in the vicinity of West 139<sup>th</sup> Street and Broadway; it was 10/19/00, a Thursday, and the time was about 10:00 PM. § 87(2)(b) alleged that the officers asked them if they had drugs or weapons in their vehicle, and ordered him and § 87(2)(b) to exit the vehicle because it did not matter “who the fuck” § 87(2)(b) was (Allegations C & D). The officers allegedly pulled the men, who were in no way “disorderly” or “rude,” from the vehicle (Allegation G), frisked them (Allegations E & H), searched their vehicle (Allegations F & I), and refused to provide their names and shield numbers (Allegations J & K). [In their interviews, summarized below, § 87(2)(b) clarified that PO Hoffman guided him out of the vehicle, but § 87(2)(b) alleged that PO Nunez pulled him out. Allegation (G), then, is against PO Nunez for force against § 87(2)(b). The civilians also later alleged that the officers searched them after frisking them. The searches are analyzed with the frisk allegations (E) and (H).]

Complainant § 87(2)(b) who provided a statement to the CCRB on 11/13/00 (enc. 5), and answered follow-up questions on 3/12/01 (enc. 5 & 18), explained that § 87(2)(b) had rented and was driving the recent-model white Dodge Intrepid in which they rode. A car was rented because § 87(2)(b) did not have a vehicle and § 87(2)(b) did not want to take his car on the trip. The men left Maryland at 3:00 or 4:00 PM. They were trying to get to Delancey Street to shop for leather coats, “like we always do,” § 87(2)(b) explained. They were lost and were traveling on Broadway in order to find a way back to Canal Street to get to the Holland Tunnel because it was too late to shop. § 87(2)(b) stopped at a red light on 139<sup>th</sup> Street; though he was the first car stopped at the light, he was not in the crosswalk. § 87(2)(b) saw the subject officers, who sat in a marked RMP also on Broadway, but heading in the opposite direction, stopped at the light facing the two civilians. As the officers drove by slowly, § 87(2)(b) made eye contact with them and told his friend as a joke, “Look how they’re looking at us – here we go.”

The police officers must have done a U-turn and followed the civilians’ vehicle about 25 feet before the civilians pulled over to ask for directions from a group of about 20 people that stood 15-20 feet away. The police car pulled up behind them with its turret lights on. PO Hoffman approached § 87(2)(b) side of the vehicle and PO Nunez approached the driver, § 87(2)(b). The first thing the officers said was, “Let me see your fucking hands.” § 87(2)(b) told the officers to calm down and asked them why they had stopped them. The officers told them to “shut the fuck up.” § 87(2)(b) told PO Hoffman that he is a § 87(2)(b) and handed him his identification. PO Hoffman told him, “I don’t give a fuck who you are or where you work, you’re in New York now.” PO Nunez got § 87(2)(b) s information from him and both officers returned to their car.

After some time, the officers returned to the civilians' vehicle and asked the civilians to exit their vehicle. § 87(2)(b) asked, "For what?" He felt that he and his friend were racially profiled and did not want to continue the incident. Also, § 87(2)(b) felt that he should have § 87(2)(b) especially since his friend did not commit an infraction. PO Hoffman guided § 87(2)(b) out as he exited the vehicle; § 87(2)(b). PO Hoffman then conducted a full body frisk on § 87(2)(b). He also went into § 87(2)(b) waistband and into his front and rear pockets. The officer pulled out a wad of money from § 87(2)(b) pocket, but recovered nothing else. PO Nunez frisked and searched § 87(2)(b). The officers asked the civilians to stand against the back of the car, which they did. The officers asked the men if they were sure they had no illegal items in the car. Then, without consent, the officers searched the vehicle, looking as well into the glove compartment and into the pockets of a coat laying in the car, which belonged to § 87(2)(b).

The officers found \$5,000 in cash folded in two packets lying underneath the passenger seat where § 87(2)(b) had been sitting. This money was § 87(2)(b) and § 87(2)(b)'s spending money. The officers asked the men what they were doing in the neighborhood with that type of money. § 87(2)(b) said he was sick of explaining that he and his friend were just going shopping. A Ford Explorer pulled up driven by a plainclothes officer subsequently identified as Sgt. Thomas Barrett; his partner, Det. Scott Rosenthal was also in the vehicle. PO Hoffman was still in the Intrepid holding the cash.

After the sergeant reviewed § 87(2)(b) identification § 87(2)(b), he identified himself to the complainant and they debated whether the officers had racially profiled him and his friend, and whether the officers had probable cause to search the vehicle. Det. Rosenthal said nothing throughout the incident. When the complainant asked the officers who had stopped him for their names and badge numbers, the officers said that it was not important. § 87(2)(b) explained that he did not obtain this information from the officers' badges during the interaction because the incident happened quickly and the officers stood at an angle from him for most of the incident, making it difficult for him to see their badges. Before the officers all left, without having issued any summons, they pointed out again that people in rental vehicles in drug-prone locations are usually there to buy or sell guns or drugs. At some point, one of the officers told § 87(2)(b) that he and his friend were stopped for stopping in a crosswalk. After the officers left the scene, § 87(2)(b) and § 87(2)(b) filed their complaint at the first police station they encountered.

### **Results of Investigation**

Complainant § 87(2)(b) interviewed on 12/21/00 (enc. 6), § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) They had been lost for hours, he stated, but they were also looking for a leather outlet and a warehouse located in Harlem.

§ 87(2)(b), § 87(2)(g). First, he stated that the incident happened about two hours earlier than 10:00 PM. He said that he made a U-turn on Broadway at the light of 139<sup>th</sup> Street. After he did this, the police car followed him with its lights and siren and he pulled over. § 87(2)(b) said that the officers pulled him and his friend out of their vehicle – PO Nunez pulling him by shirt. He said that the officers did not ask him and his friend to exit the vehicle as § 87(2)(b) said, and according to § 87(2)(b) the officers asked them for their license and registration after they were out of the vehicle. According to § 87(2)(b) the officers found \$4,700 behind the middle armrest during the search of the vehicle. § 87(2)(b) said that he did not consent to the search of the car, but he told the officers to go ahead and search the trunk of the car too, which they did. According to § 87(2)(b) the officers frisked and searched him and his friend after they searched the car. PO Nunez removed \$25 and his keys from § 87(2)(b)'s pocket. PO Nunez told the two men to "shut the fuck up" as they were being frisked and were trying to explain to the officers what they were doing in the area. PO Nunez asked § 87(2)(b) if he knew not to stop in a crosswalk, and when he answered, no, PO Nunez said, "Well, now you do."

After the incident, § 87(2)(b) did not want to file a civilian complaint. He and § 87(2)(b) headed back down Manhattan to get to another place that sells leather pocketbooks and coats. On the way there, they saw a police precinct and § 87(2)(b) decided to file a complaint there. § 87(2)(b) was uncooperative with the investigator's attempts to ask him follow-up questions later in the investigation, and he did not return the verification statement along with a copy of the rental auto contract to the investigator (see enc. 18 & 20).

#### Officer statements

PO John Hoffman indicated in his memo book (enc. 7) that he and his partner, PO Nunez conducted the car stop in question because the civilians' vehicle was stopped in a crosswalk and would not cross the RMP. PO Hoffman indicated that he patted down the complainant, who had his hands under the seat, for safety. Then he and his partner warned and admonished the men. PO Hoffman provided a statement to the CCRB on 2/16/01 (enc. 8). He stated that while he and his partner were at the intersection in question, they observed the civilians' vehicle in the intersection. The passenger, § 87(2)(b) was hunched over and the two men were talking. PO Hoffman observed this from over his shoulder because the RMP had passed the civilians' vehicle, which did not move for two light changes. When the vehicle did move, it made a U-turn. The officers followed the car. When the vehicle stopped, the driver, § 87(2)(b) tried to exit the car. PO Hoffman told him to get back into the vehicle through the PA system.

PO Hoffman approached § 87(2)(b) side of the vehicle, and as he did, the complainant had both of his hands underneath the seat; he was fidgeting and acting nervously. The window was open. When PO Hoffman asked § 87(2)(b) to place his hands where he could see them, § 87(2)(b) told him, "We're working on something — § 87(2)(b)." PO Hoffman asked § 87(2)(b) who did place his hands on the dashboard, § 87(2)(b). § 87(2)(b) did not answer, but § 87(2)(b) yelled, § 87(2)(b) "Both of the civilians were yelling and PO Nunez kept telling § 87(2)(b) to talk to him, as he was standing on the driver's side of the car. § 87(2)(b) PO Hoffman then noticed a bulge in § 87(2)(b) front pants pocket, so he opened the vehicle door and searched under the passenger seat.

Below the seat, PO Hoffman found a large sum of money – about \$15,000 - \$20,000 – in three bundles held together with rubber bands, wrapped in a black shirt underneath the seat. PO Hoffman asked § 87(2)(b) if he had a firearm on his person. § 87(2)(b) either did not respond or he provided different answers when asked. PO Hoffman either pulled § 87(2)(b) out of the vehicle or he asked him to step out. PO Hoffman did a quick frisk of his waist and back for a weapon – not a whole body frisk. PO Hoffman said that he asked § 87(2)(b) what was in his pants pocket, and § 87(2)(b) said that it was money. PO Hoffman squeezed the bulge, but did not go into § 87(2)(b) pocket to remove it. PO Hoffman was not convinced that there was no gun.

Soon, a sergeant subsequently identified as Sgt. Barrett, whose name and telephone number PO Hoffman documented in his memo book (enc. 7), pulled up to the scene. The officers asked him to stay because they did not know what type of situation they had in their hands. PO Hoffman decided to search the vehicle again – specifically staying in the area where § 87(2)(b) sat. No officer searched the rest of the vehicle. § 87(2)(b)

§ 87(2)(b) said that he got nervous because he did not know what was happening. The men told the officers that they were shopping for jackets earlier in the day and were planning to get back to Baltimore. PO Hoffman felt that their story did not check out, considering that they were in a drug-prone location, the stores are closed at that time, and it did not explain the rental auto. PO Hoffman did not know why his partner did not issue the driver a summons before the men left.

PO Osvaldo Nunez, interviewed on 2/7/01 (enc. 9), filed a stop and frisk report (enc. 13) related to the incident, which he brought to his interview, and he brought a print-out of the Finest check that he conducted with § 87(2)(b)'s driver's license (enc. 14). The stop and frisk report, which the officer read into the record, indicated that at about 9:35 PM, the officers stopped § 87(2)(b) for a traffic

infraction. PO Nunez indicated that § 87(2)(b) was not compliant and was “extremely nervous and restless inside the vehicle.”

§ 87(2)(g)

PO Nunez corroborated his partner’s account about how the civilians acted: § 87(2)(b) talking to PO Hoffman rather than to him, § 87(2)(b) yelling, both complainants acting nervously. PO Nunez repeatedly asked § 87(2)(b) for his identification, but he just threw his hands in the air and would not comply. PO Nunez asked § 87(2)(b) to step out of the car, which he did without the officer touching him. When § 87(2)(b) stood up, he was “huge – like 250 or 300 pounds.” PO Nunez conducted a pat down frisk because he feared for his safety. PO Nunez explained that the way the events had transpired made him fear for his safety. Such things as the hesitation to cross in front of the RMP, § 87(2)(b) not obeying the officer’s commands and facing away from him while PO Nunez talked to him so that he was not able to see § 87(2)(b)’s hands, and his being a “big guy.” PO Nunez said that the frisk did not result in anything and he did not go into § 87(2)(b)’s pockets. PO Nunez said that he searched the vehicle because when he asked § 87(2)(b) if he had anything “illegal” in the car, he said, “No, go ahead and search.” PO Nunez said that he asked § 87(2)(b) the question because PO Nunez “had a feeling he was concealing something because” § 87(2)(b) was acting “extremely nervous.” PO Nunez searched the area where § 87(2)(b) had been sitting. He did not find anything but his partner found about \$3,000.

PO Nunez reviewed § 87(2)(b)’s driver’s license and rental auto information and ran the information through his RMP computer. Once § 87(2)(b)’s information was verified, PO Nunez returned to the car where the civilians were and told § 87(2)(b) that he has to come to a complete stop at a red light before the marked crosswalk so as not to obstruct pedestrian traffic. The officer decided not to issue § 87(2)(b) a summons because § 87(2)(b) was from out of town, so he may not have known about the law. PO Nunez said that he did not know until he later heard from his partner, that § 87(2)(b) claimed § 87(2)(b) was “working on something.” PO Nunez denied cursing at the civilians and said he did not hear if his partner did. He said he was not asked for his shield number, but his shield was “prominently displayed” on his uniform.

PO Nunez explained that his precinct is the “narcotics trafficking center for the northeast.” Dealers often travel in rental cars from Pennsylvania, New Jersey, and Connecticut to buy their narcotics in wholesale quantities. People also travel to the incident area to sell guns in cars with Virginia plates because Virginia is a state where guns are easy to buy.

Sgt. Thomas Barrett of the Fugitive Investigations Unit, interviewed on 3/29/01 (enc. 11), stated that he and Det. Rosenthal were working in plainclothes in an unmarked car looking for a suspect in the vicinity of the incident area. They saw two uniformed officers, POs Nunez and Rosenthal, conducting a car stop that appeared to be very unsafe. The passengers of the car that was stopped were out of the car, talking loudly and rudely, flailing their arms, walking around, distancing themselves from the car – they looked like they were trying to create a distraction. Sgt. Rosenthal, concerned for the officers’ safety, pulled up and asked one of the officers if he wanted the sergeant to stay. The officer seemed grateful and said yes.

Sgt. Barrett waited in his car and then exited the vehicle and talked to § 87(2)(b) who identified himself as § 87(2)(b). At some point, Sgt. Barrett had learned that inside the vehicle in which § 87(2)(b) was an occupant, the officers found a large amount of money, packaged and underneath the front passenger seat of the vehicle. Sgt. Barrett talked to § 87(2)(b) about how eyebrow-raising it was for that to be found in a vehicle stopped in a location that is “super, super high drug-prone.” § 87(2)(b) said that he was shopping for coats and Sgt. Barrett responded that there were no coat stores open at that time. § 87(2)(b) wanted to make a complaint about the stop, and Sgt. Barrett offered to personally take him to the 30<sup>th</sup> precinct to help him file the complaint. § 87(2)(b) declined the offer. A search of the vehicle was not conducted in the presence of Sgt. Barrett; he did not recall if the civilians were frisked in front of him; neither of the uniformed officers cursed at the civilians in his presence. No physical force was used against the civilians. Sgt. Barrett did not witness the civilians ask for the

uniformed officers' names and shield numbers, but their information was visible on the officers' badges. Sgt. Barrett offered his name to § 87(2)(b) without request because he wanted § 87(2)(b) to have it.

Det. Scott Rosenthal, § 87(2)(g)

§ 87(2)(b) He mentioned several times the "unruly" and "abusive" behavior the complainants were exhibiting. He said that he stayed out of the interaction, and just stood by for support while the civilians talked to the uniformed officers and the sergeant. Without touching the vehicle, Det. Rosenthal saw the bundles of money "wrapped like a deck of cards" in plain view on the floor of the passenger side of the vehicle. Det. Rosenthal did not see the vehicle get searched, the civilians frisked or cursed at, and he did not hear the civilians ask for the officers' names and badge numbers. Det. Rosenthal said that his sergeant did freely offer his information to the civilians.

#### Police documents

PO Hoffman filed a Stop and Frisk Report (enc. 13) about the stop of the vehicle in which § 87(2)(b) was also an occupant. According to the report, the passenger - § 87(2)(b) - had his hands under the seat covering an object. The officer also indicated that he noticed a bugle in the front of § 87(2)(b) pants. PO Hoffman wrote that he conducted a frisk for his safety, but a search inside the complainant's clothes was not made. The Stop and Frisk Report (enc. 13) filed by PO Nunez about the stop of § 87(2)(b) for a "VTL violation." PO Nunez said that § 87(2)(b) - the driver - was not obeying the officer's commands. He was also "extremely nervous and restless." The driver was frisked, but a search inside his clothes was not conducted.

According to the Finest Message Switching System printout (enc. 14), the officer's check of § 87(2)(b)'s license at first indicated no record. Then the results indicated that § 87(2)(b) was not wanted and had a valid Maryland driver's license. Communications records were returned for an incorrect date (enc. 15). The case did not necessitate further inquiry into communications records because the case did not involve radio transmissions. The MISD request was returned as a "no hit" for § 87(2)(b)'s license (enc. 16), but the Finest printout sufficiently provided the information that the officers retrieved on their computer on the night of the incident. Fleet Services provided a list of Ford Explorers in the police department, which was requested to assist with the identification of the witness officers (enc. 17). The list was not necessary, though, because PO Hoffman had in his memo book information about the identities of the sergeant and detective.

#### Searches for leather coat retailers near Harlem

The investigator conducted a Yahoo search and Metrosearch (enc. 19) for the locations that § 87(2)(b) said he and § 87(2)(b) were looking for on the night of the incident (see enc. 6). Directory Assistance was also employed as a search tool. Directory Assistance had no record of a Leather Emporium on 152<sup>nd</sup> Street, as § 87(2)(b) indicated. Yahoo and Metrosearch results showed most locations that sell leather goods are located in the Garment District (just below midtown), the Chinatown area and the Delancey Street area (in lower Manhattan). Yahoo did show a "Emporium Leather Corporation," but that was located in Secaucus, New Jersey, about 4.5 miles from mid-Manhattan. The nearest such location to where the complainants were on the night of the incident is a location called "Leather and Suede Doc," which is located at 255 W. 113<sup>th</sup> Street, about thirty blocks from the incident location.

### **Conclusions and Recommendations**

To recap, on the night of the incident (sometime between 9:30 PM – 10:00 PM), § 87(2)(b) and § 87(2)(b) who rode in a vehicle with Virginia license plates, were stopped at a stoplight when they became aware of POs Hoffman and Nunez riding in an RMP. § 87(2)(b) the driver of the vehicle, made a U-turn at the light. The officers pulled over the civilians, frisked them, and searched the vehicle in which they rode. PO Hoffman found bundles of cash in the amount somewhere between \$3,000 - \$15,000 underneath the passenger seat, in which § 87(2)(b) sat. § 87(2)(b) is a § 87(2)(b).



§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(l)

PO Hoffman did find suspicious packets containing thousands of dollars in cash wrapped in an article of clothing beneath the seat where § 87(2)(b) sat. § 87(2)(b), § 87(2)(g) They also each filled out Stop and Frisk reports (UF 250s, enc. 13) about the stop of each man.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)



### Allegations addressed

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Also, both officers mentioned the traffic violation in the Stop and Frisk reports they filed. § 87(2)(g)  
[REDACTED]  
[REDACTED]

The officers stated that the men hesitated at the light, and allowed two light changes before making a U-turn. § 87(2)(b), § 87(2)(g) [REDACTED] Other factors, though, raised the officers' suspicions about the complainants. PO Hoffman stated that while the civilians waited at the light, he saw them talking and saw the passenger reach under the seat. The officers also noticed that the car's plates were from Virginia, which, PO Nunez explained is where many gun dealers come from because of liberal gun laws in the state.

### Allegations A & B

§ 87(2)(b) [REDACTED] alleged that PO Hoffman and PO Nunez stopped him and his friend without good reason. § 87(2)(b), § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### Allegations C & D

§ 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] alleged that PO Hoffman and PO Nunez used the word "fuck" in their orders towards them and that PO Hoffman said, "We don't give a fuck who you are." [REDACTED]

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### Allegations E & F

§ 87(2)(b) [REDACTED] alleged that PO Hoffman frisked him (E) and searched his vehicle (F). § 87(2)(b), § 87(2)(g) [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(b), § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] § 87(2)(b) wrote

that “a complete body frisk” was conducted on him and § 87(2)(b) (see enc. 3). § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

In PD v. Farrell (2/21/01), the Assistant Deputy Commissioner of Trials, Robert Vinal, excused an officer who patted down and searched the pockets of a man who the officer suspected of having a gun while in a drug-prone location (see Appendix A). It turned out that the man was carrying a black cell phone, which was confused for a gun. Mr. Vinal considered many aspects of the case to show that the officer had legal justification to “merely pat down [the man’s] clothing and search his pockets.” § 87(2)(g)

The officers in Farrell observed the civilian place a black object in his waistband. § 87(2)(b), § 87(2)(g)

Mr. Vinal also pointed out that the “prompt preparation” of a UF 250 about the stop indicates that the officer “did not intend to abuse his authority” with his actions. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

According to Kamin’s New York Search and Seizure (Appendix C) an officer needs “probable cause” that inside a car stopped for a valid investigatory stop is “contraband, a weapon, or evidence of a crime.” In PD v. Mante (12/6/00), Deputy Commissioner of Trials Rae Downes Koshetz found a sergeant guilty of frisking the civilians whose vehicle he stopped and searching their vehicle (Appendix B). Mr. Koshetz found that the sergeant likely called one of the civilians – a male black - “bro” as well. Mr. Koshetz did not believe the sergeant’s testimony that he saw the civilians make furtive hunching movements inside the car, and evidently did not find that the sergeant had good motivations in the way he handled the stop. Also, the sergeant had been a member of the service for 19 years and a sergeant for 12 years when the incident happened. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

In PD v. Wang, Judge Spooner established that unconstitutional stops and frisks may not be misconduct if the officer acted in good faith (see Appendix D). § 87(2)(g)

#### Allegations G, H, and I

§ 87(2)(b) alleged that PO Nunez pulled him out of the car (G), frisked and searched him (H), and searched his side of the car (I). § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that PO Nunez frisked him and went into his pockets, pulling out money and keys. PO Nunez denied going into § 87(2)(b)'s pockets. § 87(2)(b), § 87(2)(g)

PO Nunez said that he was suspicious of § 87(2)(b) from the beginning. § 87(2)(b) tried to exit the vehicle when he was stopped, he was not compliant with the officer's directions, and he had his back to the officer while in the car, leaving his hands unexposed to the officer. Also, § 87(2)(b)'s size, which PO Nunez described as "huge – 250 to 300 pounds" intimidated the officer when § 87(2)(b) stepped out of the vehicle. (PO Nunez is 6'0" and 215 pounds. § 87(2)(b) told the investigator that he is 5'10" and 210 pounds. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

About the search of the vehicle, Allegation (I), PO Nunez indicated that the situation led him to believe that the men were hiding something in the vehicle. He also said that § 87(2)(b) told him to go

ahead and search the car. § 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegations J and K

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: